

Chapter DOC 346

SECURE DETENTION FOR JUVENILES

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Note: Chapter HSS 346 was renumbered Chapter DOC 346 and revised under s. 13.93 (2m) (b) 1, 2, 6 and 7, Stats., Register, April, 1990, No. 412.

DOC 346.01 Purpose and authority. The purpose of this chapter is to protect the health, safety and welfare of all juveniles held in secure detention facilities and the juvenile portion of county jails, by establishing minimum standards for these facilities, and to ensure compliance with 42 USC 5601 to 5761 (1988) and 28 CFR Part 31. These rules are promulgated under the authority of s. 48.22 (2) (a), Stats., and implement ss. 301.36, 301.37 and 48.209, Stats.

Note: 42 USC 5601 to 5761 (1988) is known as the juvenile justice and delinquency prevention act of 1974 (JJDPA), as amended in 1988; 28 CFR Part 31 are the federal regulations promulgated under the JJDPA.

History: Cr. Register, January, 1983, No. 325, eff. 2-1-83; am. Register, September, 1992, No. 441, eff. 10-1-92.

DOC 346.02 Applicability. All sections of this chapter apply to all facilities except that, unless specified to the contrary in s. DOC 346.11, the provisions of s. DOC 346.11 shall apply solely to facilities that are constructed or substantially remodeled after the effective date of this chapter.

History: Cr. Register, January, 1983, No. 325, eff. 2-1-83.

DOC 346.03 Definitions. (1) "Day room" means an area readily accessible to each group of sleeping rooms and which is designated and used as a leisure time area.

(2) "Department" means department of corrections.

(3) "Facility" means either a secure detention facility under s. 48.02 (16), Stats., or the juvenile portion of a county jail.

(4) "Juvenile" means a person who is less than 18 years of age, except that it does not mean a person 16 or 17 years of age who has been waived to adult court pursuant to the procedures in s. 48.18, Stats.

(5) "Juvenile portion of a county jail" means an area used for detention of juveniles which is part of a county jail.

(6) "Living area" means the part of a secure detention facility normally occupied by juveniles, including dayrooms, multi-purpose rooms, and adjacent control centers.

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(7) "Multi-purpose room" means an area which allows adequate space for recreational activities and physical exercise.

(8) "Secure detention facility" has the meaning given in s. 48.02 (16), Stats., and includes a stand alone facility or a facility located in the same building or on the same grounds as a county jail.

(9) "Sleeping room" means a secure room which is designed for single occupancy.

(10) "Superintendent" means:

(a) The individual designated to be in charge of a public secure juvenile detention facility under s. 48.22 (3) (a), Stats., or the director as specified in s. 48.22 (3) (b), Stats.; or

(b) In the case of the juvenile portion of the county jail, the sheriff of a county in which the jail is located pursuant to s. 59.23 (1), Stats.

History: Cr. Register, January, 1983, No. 325, eff. 2-1-83; r. and recr. (6), am. (8) and (10), Register, September, 1992, No. 441, eff. 10-1-92.

DOC 346.035 Contact. There may be no physical, verbal or visual contact between juveniles and adult inmates in the juvenile portion of a county jail or a secure detention facility.

History: Cr. Register, September, 1992, No. 441, eff. 10-1-92.

DOC 346.04 Operational plan. (1) Before a facility may hold juveniles in secure custody, it shall have a mission statement and a written operational plan which has been approved by the department under s. 48.22 (2) (a), Stats., and which meets the requirements of 42 USC 5601 to 5761 (1988) and 28 CFR Part 31 and the standards specified in this chapter. No plan may be implemented until the department has approved the plan, under s. 48.22 (2) (a).

(2) The operational plan shall contain the following components:

(a) Statement setting forth the mission of the facility.

(b) Designation of whether the facility will operate as a juvenile portion of the county jail or as a secure detention facility.

(c) Policies and procedures to ensure against any contact between juveniles and adult inmates in all areas of the facility, including sally-ports, entrances, booking, intake, living areas, dayrooms, multi-purpose rooms, elevators, visiting, staircases, medical areas and all other areas in which juveniles could have contact with adult inmates.

(d) Policies and procedures for a secure detention facility to ensure immediate security backup in emergency situations.

(e) Policies and procedures for fire protection, staffing, discipline, daily recreation, mail and telephone privileges, visitations, and health care.

(f) Procedures which the facility will follow to ensure compliance with the standards specified in this chapter.

(3) Prior to submitting the operational plan to the department for approval under s. 48.22 (2) (a), Stats., the superintendent shall distribute the plan for review and comment to the sheriff, juvenile court judge, chief intake worker, social or human services director, and the director of

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the county department of community programs appointed under s. 51.42 (4), Stats.

Note: 42 USC 5601 to 5761 (1988) is known as the juvenile justice and delinquency prevention act of 1974 (JJDP), as amended in 1988; 28 CFR Part 31 are the federal regulations promulgated under the JJDP.

History: Cr. Register, January, 1983, No. 325, eff. 2-1-83; r. and recr. Register, September, 1992, No. 441, eff. 10-1-92.

DOC 346.044 Annual meeting. In any county in which there is a secure detention facility, the superintendent shall conduct an annual meeting to discuss and review the operation of the secure detention facility, and to review the operational plan to ensure it is current and reflects practices at the facility. The superintendent shall schedule the annual meetings, and invite the sheriff, juvenile court judge, chief intake worker, social or human services director, and the director of the county department of community programs appointed under s. 51.42 (4), Stats.

History: Cr. Register, September, 1992, No. 441, eff. 10-1-92.

DOC 346.05 Construction plans. All plans, specifications, and sites for construction or remodeling of a secure detention facility or the juvenile portion of a county jail shall be submitted to the department for approval pursuant to s. HSS 350.04, shall meet the requirements of chs. ILHR 50-64, Wis. Adm. Code, and shall be approved by the department of industry, labor and human relations under s. ILHR 50.12.

History: Cr. Register, January, 1983, No. 325, eff. 2-1-83.

DOC 346.055 Use of jails. (1) The department may approve a county jail for use as a juvenile portion of a county jail or as a secure detention facility.

(2) The juvenile portion of a county jail may only be used to hold juveniles under the provisions permitted by 42 USC 5601 to 5761 (1988) and 28 CFR Part 31.

Note: 42 USC 5601 to 5761 (1988) is known as the juvenile justice and delinquency prevention act of 1974 (JJDP), as amended in 1988; 28 CFR Part 31 are the federal regulations promulgated under the JJDP.

History: Cr. Register, January, 1983, No. 325, eff. 2-1-83; r. and recr. Register, September, 1992, No. 441, eff. 10-1-92.

DOC 346.06 Admission of juveniles to secure detention. (1) No juvenile may be placed in secure detention except in a facility meeting these standards and approved by the department.

(2) Juveniles may be admitted to secure detention only after it has been determined by the court or intake worker pursuant to ss. 48.20, 48.205, 48.208, 48.209, and 48.21, Stats., that secure placement is appropriate. Any violation of requirements specified in s. 48.067 (2), Stats., shall be reported by the superintendent to the department in writing.

(3) An approved facility shall be able to receive juveniles into secure detention 24 hours a day, 7 days a week.

(4) Items of personal property and valuables, including money, which are taken from juveniles shall be listed in writing, stored in a safe place and returned to the juvenile upon release. The written property list shall be signed by each juvenile and an employe at the time of admission and release. If a juvenile cannot or will not sign the property list, a written

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notation to that effect shall be placed on the list and verified by two witnesses.

(5) As soon as possible following admission, each juvenile shall be required to take a bath or shower.

(6) Upon admission, the juvenile shall be given an opportunity as soon as possible to telephone both a family member and legal counsel.

(7) Upon admission, the juvenile shall be screened for mental and physical health problems by a staff member who shall make use of a screening format developed in conjunction with medical personnel, including mental health care personnel.

(8) A juvenile who appears to be seriously ill or injured, who exhibits significant mental or emotional distress, or who appears to be so significantly under the influence of a controlled substance or alcohol as to have impaired functioning shall not be confined in the facility unless the juvenile has been seen by medical personnel, treated and found to be well enough to be confined.

History: Cr. Register, January, 1983, No. 325, eff. 2-1-83.

DOC 346.07 Supervision and care of juveniles. (1) DISCIPLINE. (a) At the time of admission, each juvenile shall be notified verbally and provided with a copy of the rules of behavior required in the facility and the potential disciplinary actions imposed for violation of the rules. Copies of the rules shall also be posted in conspicuous places.

(b) Documentation of a rule infraction and any disciplinary action shall be made part of the juvenile's record as required under s. DOC 346.13.

(c) Disciplinary action shall be determined on an individual basis. Group discipline for the misbehavior of one juvenile is prohibited.

(d) No juvenile may be given authority over another juvenile or be involved in taking disciplinary action against another juvenile.

(e) The following penalties shall be allowed as disciplinary actions:

1. Room confinement, except that room confinement for more than 6 hours shall not occur unless the juvenile is first given a disciplinary hearing in accordance with sub. (4). Room confinement of less than 6 hours shall be reviewed by supervisory personnel.

2. Restriction of privileges, to include but not limited to, use of radio, television, leisure time materials or canteen, provided that procedures under par. (f) are followed. Restriction on opportunities for religious worship; food or special dietary requirements; sleep; access to attorneys, courts or legislators or to mental health personnel or social workers; and basic health and sanitation requirements shall not be permitted.

3. Restriction of family visits, telephone, mail and exercise when the restriction is directly related to a violation of rules concerning these activities, provided that the procedures under par. (f) are followed.

(f) A juvenile's privileges may be restricted for a rule violation after the juvenile is given an opportunity to explain the circumstances of the alleged violation. The rule violation and restriction shall be reviewed immediately by supervisory staff. If the violation occurs after 8 p.m. and no

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administrative superior is available, the staff member may restrict privileges subject to supervisory review within 12 hours. The supervisor's review shall include an opportunity for the juvenile to explain the circumstances of the alleged violation.

(g) A juvenile may not be disciplined by corporal or unusual punishment, intentional humiliation, mental abuse, interference with the daily functions of living, the use of chemical agents, the use of restraints such as handcuffs or shackles, or by placement in a cell designed for the administrative or disciplinary segregation of adults.

(2) CONTROL. If a juvenile's behavior presents a serious danger of harm to self or others or when a juvenile presents a serious risk to security, the juvenile may be confined to his or her own room for purposes of control and shall be provided with professional help as soon as possible if this seems warranted. The juvenile shall be released as soon as the danger has ended. Room confinement for control for more than one hour shall require the approval of the staff person in charge of the facility. If the juvenile is held in room confinement for more than one hour, the staff person in charge of the facility shall personally visit the confined juvenile before the juvenile has been confined for 6 hours, excluding hours between 8:00 p.m. to 7:00 a.m., and at least once every 6 hours thereafter until the juvenile is released from room confinement. Administrative approvals shall be made a part of the juvenile's record.

(3) ROOM CONFINEMENT. Whenever a juvenile is confined in his or her own room, whether for discipline or control:

(a) The juvenile shall be observed at least once every 30 minutes at irregular intervals, and more frequently if possible.

(b) There shall be no additional loss of privileges, and reading, recreational and educational materials shall be provided unless there is reason to believe that these materials will be damaged or their presence presents a danger to the juvenile.

(c) No juvenile may be placed in room confinement for more than 24 consecutive hours without medical authorization based on a finding that further confinement will not harm the juvenile. Close observation shall occur.

(d) A written log of room confinements shall be recorded and maintained.

(e) A juvenile shall not be placed in confinement in a cell designed for the administrative or disciplinary segregation of adults.

(4) DISCIPLINARY HEARINGS. (a) Whenever room confinement exceeding 6 hours is proposed as a disciplinary measure, the juvenile shall be given a disciplinary hearing. Notice of the hearing and the specific charges shall be given at least 12 hours prior to the hearing unless the notice is waived by the juvenile. The juvenile shall be advised of the following rights:

1. The right to request the presence of available material witnesses.
2. The right to have the facility provide a person to help the juvenile respond to the charges.

(b) The disciplinary hearing shall be held within 24 hours of receipt of the written notice. The juvenile shall be afforded the hearing before a person or persons not involved as an accuser, witness, or investigator of the incident.

(c) At the hearing, the juvenile or the juvenile's representative shall be entitled to call witnesses who are material to the determination of the facts of the alleged violation and present documentary evidence in his or her defense.

(d) The juvenile shall be given a written decision and instructions for possible appeal to the superintendent no later than 24 hours after the hearing.

(5) **CLOTHING.** Each facility shall insure that juveniles are dressed appropriately in clean clothes.

(6) **WORK ASSIGNMENTS.** Juveniles may be required to perform such assignments as making their own beds, cleaning their own rooms and keeping group living and activity areas in order. Under no circumstances may juveniles be assigned hazardous work or work normally done by a paid employe or craftsman.

(7) **RELIGION.** Juveniles shall have the right to religious ministrations and sacraments as provided in s. 46.066, Stats.

(8) **NUTRITION.** Juveniles shall be served 3 meals daily in sufficient quantities and varieties to provide for proper nutrition.

(a) Milk shall be offered as a beverage at every meal.

(b) In planning menus, consideration shall be given, whenever possible, to the religious practices and cultural patterns of the juveniles.

(c) Daily menus of food actually served shall be kept on file for at least 60 days and shall be made available to the department upon request.

(d) The food service program shall be monitored and evaluated every 90 days by the superintendent or designee. Reports shall be available to the department upon request.

(e) Supplementary food or modified diet, as ordered by a physician, shall be provided for those juveniles who have special needs.

(9) **RECREATION AND EXERCISE.** (a) Juveniles shall have access to leisure time supplies and activities unless use of these materials is restricted for disciplinary or security reasons.

(b) Each juvenile shall be provided an opportunity to participate in at least one hour of physical exercise a day. The opportunity to exercise may be restricted when a juvenile's participation creates an imminent danger to self or others. Any restrictions shall be logged, along with reasons for them.

(10) **MAIL.** (a) There shall be no limitations on the amount of mail a juvenile may send or receive unless the reasons for such limitations are justified and documented in the juvenile's record.

1. Upon request, the facility shall provide a juvenile with all necessary writing materials. Postage for a minimum of 2 letters a week for each juvenile shall be provided.

2. There shall be no limitation on subsidized correspondence to a juvenile's legal counsel, the court and government officials.

(b) Juveniles shall be permitted to send uninspected, sealed letters to the court, legal counsel, officials of the facility, and government officials, and to parents, legal custodians or guardians.

(c) Juveniles shall be permitted to receive uninspected, sealed letters from the court, legal counsel, officials of the facility and government officials.

(d) Upon entry into the facility, juveniles shall be advised that their general incoming letters and packages may be inspected for contraband. Any contraband found may be confiscated.

(e) All mail shall be delivered to the juvenile on the same day that it is received at the facility.

(11) VISITORS. (a) Family visits are of primary importance and shall be allowed on a daily basis. Each facility shall provide for family visits during designated hours. Visiting hours shall be designated during both the day and evening with a minimum of 3 hours before 5:00 p.m. and 2 hours after 5:00 p.m. "Family" means immediate family and relatives. Visits by related juveniles when accompanied by a related adult shall be allowed.

(b) Clergy, teachers, mental health professionals, social workers and legal counsel shall be permitted to visit at reasonable times. These visits may not be subject to any physical barriers or restrictions and shall be free of surveillance.

(c) The number of visitors a juvenile may receive and the length of visits may be limited only as required by the facility's schedule, space availability and personnel constraints or when there are documented reasons to justify such limitations. Family visits may not be limited to less than 30 minutes.

(d) Visitors shall be required to register upon entry to the facility.

(12) TELEPHONE CALLS. Calls by the juvenile to his or her legal counsel and social worker shall not be limited. A juvenile shall be allowed to make at least one 10-minute telephone call to a family member every 24 hours. Additional telephone calls shall be allowed to the extent possible, given the facility's schedule, telephone availability, and personnel constraints, unless there are documented reasons to justify limitations.

(13) HYGIENE AND HEALTH CARE. (a) Toilet articles sufficient for the maintenance of cleanliness and hygiene, including but not limited to, toothpaste and toothbrush, soap, comb, toilet paper, towels and washcloths, shampoo, shaving materials, and feminine hygiene materials, shall be provided. There shall be no common use of these items.

(b) Showers shall be available daily.

(c) The facility shall provide or secure necessary medical treatment and emergency dental care while the juvenile is in custody. Parental consent for treatment shall be required, except in the event of an emergency and parents are not available or as otherwise provided by statute.

(d) Professional help shall be provided for a juvenile displaying mental distress including withdrawal, uncontrolled emotions and self-destructive behavior.

(e) Facilities shall have a written plan, developed in conjunction with medical, dental and mental health personnel, for medical, dental and mental health care. The plan shall detail procedures to be followed in emergencies and shall be posted in a place easily accessible to facility staff. The plan shall also include procedures for facility staff to follow when they observe or are notified of injuries or illness.

(f) The names, addresses and telephone numbers of all medical, mental health and dental personnel and hospitals and clinics which provide care to detained juveniles shall be posted in a place easily accessible to staff.

(g) No prescription medication may be administered to any juvenile unless prescribed by a physician and given under direction of the jail nurse or another trained person identified in the plan required under par. (e). A record of prescription medications administered shall be maintained in the form of a log.

(14) **EDUCATION.** Facilities shall make every reasonable effort to ensure that juveniles held for more than 5 school days are provided with educational instruction and materials. If a juvenile will likely be held more than 5 school days the facility shall notify the juvenile's school and parents and ask that they provide the juvenile with educational assignments, counseling and materials.

History: Cr. Register, January, 1983, No. 325, eff. 2-1-83.

DOC 346.08 Staff. (1) **EMPLOYMENT PRACTICES.** Employment practices of each facility shall be in compliance with subch. II of ch. 111, Stats., the equal employment opportunity act of 1972 (42 U.S.C. 2000e - 2000e-17) and s. HSS 5.07 (1).

(2) **JOB DESCRIPTIONS.** There shall be written job descriptions kept on file for all staff and prior employment references shall be verified and documented in the employee's personnel record.

(3) **HEALTH QUALIFICATIONS FOR EMPLOYMENT.** Staff shall receive a medical examination by a physician at the time of initial employment. Personnel records shall contain verification of the medical examination.

(4) **EDUCATION AND TRAINING.** As soon as possible within the first 90 days of employment, staff shall receive 40 hours of orientation training which shall be documented in the employee's personnel record and which shall include but not be limited to:

(a) Information on the administrative rules governing secure detention of juveniles;

(b) First aid, the use of emergency equipment and medical screening; and

(c) Supervision and control of juveniles.

(5) **STAFFING PLAN.** (a) A staffing plan which specifies methods by which adequate staffing will be provided to ensure the health, safety and welfare of the juveniles shall be submitted to the department for approval.

(b) In secure detention facilities:

1. There shall be at least one staff member on duty at all times in each living unit where juveniles are present.
2. No staff member may be responsible for supervision of more than 15 juveniles.
4. There shall be no less than 2 staff members on duty in the facility at any time when juveniles are present and at least one of those shall be in the living area.
5. A staff member of the same sex as the juveniles being admitted or held in custody shall be on duty.

(c) In the juvenile portion of county jails:

1. No staff member providing supervision to children may be responsible for the supervision of more than 30 individuals.
2. No staff member responsible for supervision of juveniles may during the same time period have responsibility for radio or dispatch duties.
3. A staff member of the same sex as the juveniles being admitted or held in custody shall be on duty.
4. At all times a staff member shall be within call of the area in which the juvenile is confined.

(d) No staff member responsible for supervision of juveniles may during the same work shift have responsibility for supervision of adult inmates in a county jail, except that a person with solely administrative, clerical, or other duties which do not include the supervision of adult inmates, may provide non-emergency backup or assistance in the secure detention facility, provided that person has been trained in the supervision of juveniles under sub. (4).

(e) Staff may not accept any gift or gratuity from a juvenile or juvenile's family.

History: Cr. Register, January, 1983, No. 325, eff. 2-1-83; renum. (4) (a) (intro.), 1. to 3. and (5) (d) to be (4) (intro.), (a) to (c) and (5) (e), r. (4) (b) and (5) (b) 3., cr. (5) (d), Register, September, 1992, No. 441, eff. 10-1-92.

DOC 346.09 Security. (1) All areas occupied by juveniles shall be physically inspected at least once every 60 minutes, at irregular intervals, during the day and night, to insure the custody, safety, and welfare of those confined. All areas occupied by juveniles who have exhibited special problems, including but not limited to suicidal tendencies, vulnerability and mental disturbance shall be physically inspected at 15 minute intervals.

(2) There shall be at least 3 complete sets of secure area and fire escape keys, one set in use, one set stored in a safe place which is accessible only to staff workers for use in an emergency and one set stored in a secure place outside the confinement area.

(a) There shall be an accurate record of the location of all keys.

(b) All staff workers shall be given instructions concerning the use and storage of the keys and shall be held strictly accountable for keys assigned to them.

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(3) All staff workers shall be familiar with the locking system of the secure area and able to release juveniles promptly in the event of a fire or other emergency.

(4) The superintendent shall insure that monthly inspections are made to determine if sleeping room and fire escape locks are in good working order. The inspections shall be documented in the files.

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